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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,474	12/28/2000	William J. Harrison	ACS-55966 (26991)	6584
24201	7590	12/06/2004	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE TENTH FLOOR LOS ANGELES, CA 90045			BUI, VY Q	
			ART UNIT	PAPER NUMBER
			3731	
DATE MAILED: 12/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/750,474

Applicant(s)

HARRISON, WILLIAM J.

Examiner

Vy Q. Bui

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-11 and 13-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4,611, 13-33, 35-37 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

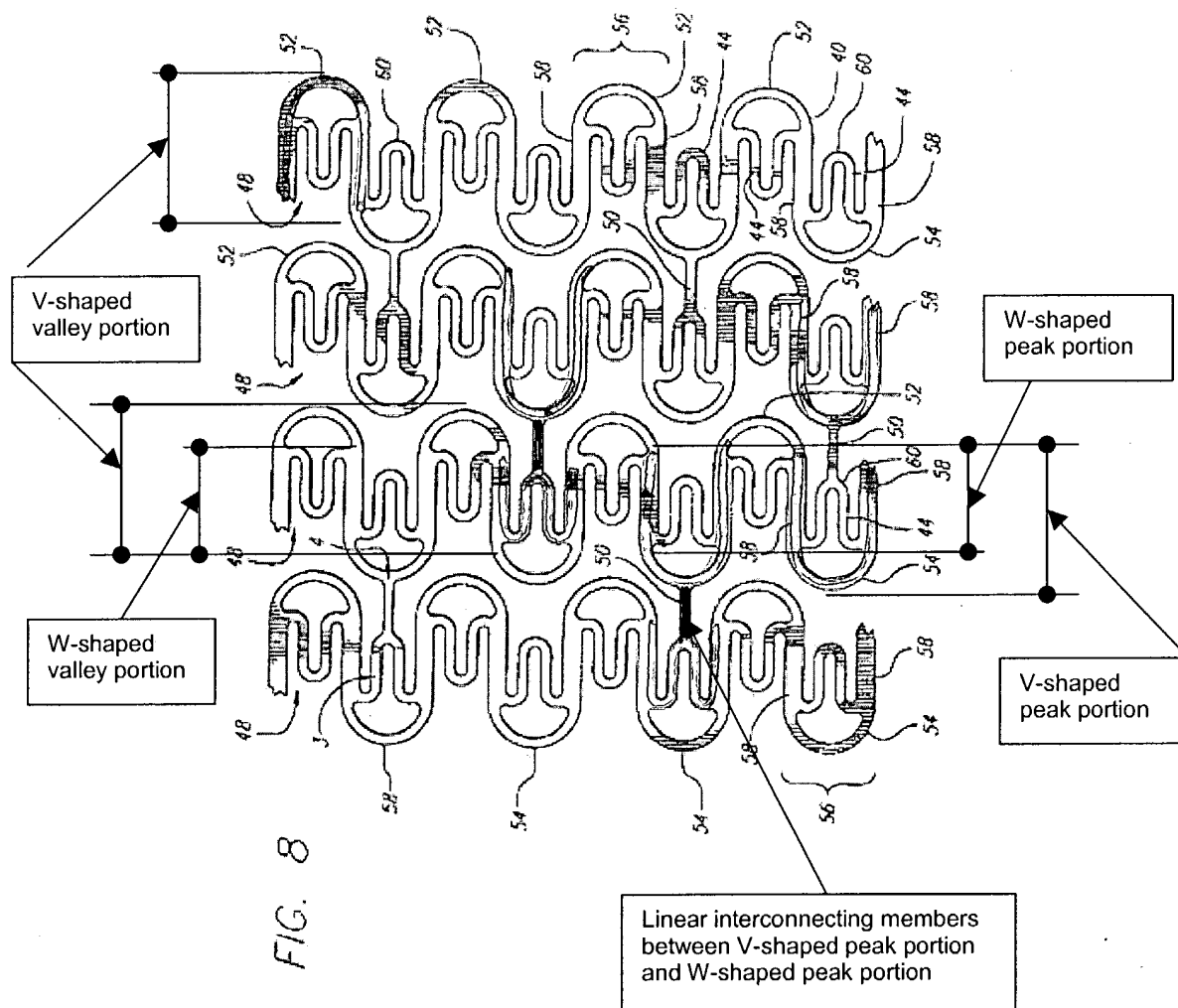
### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

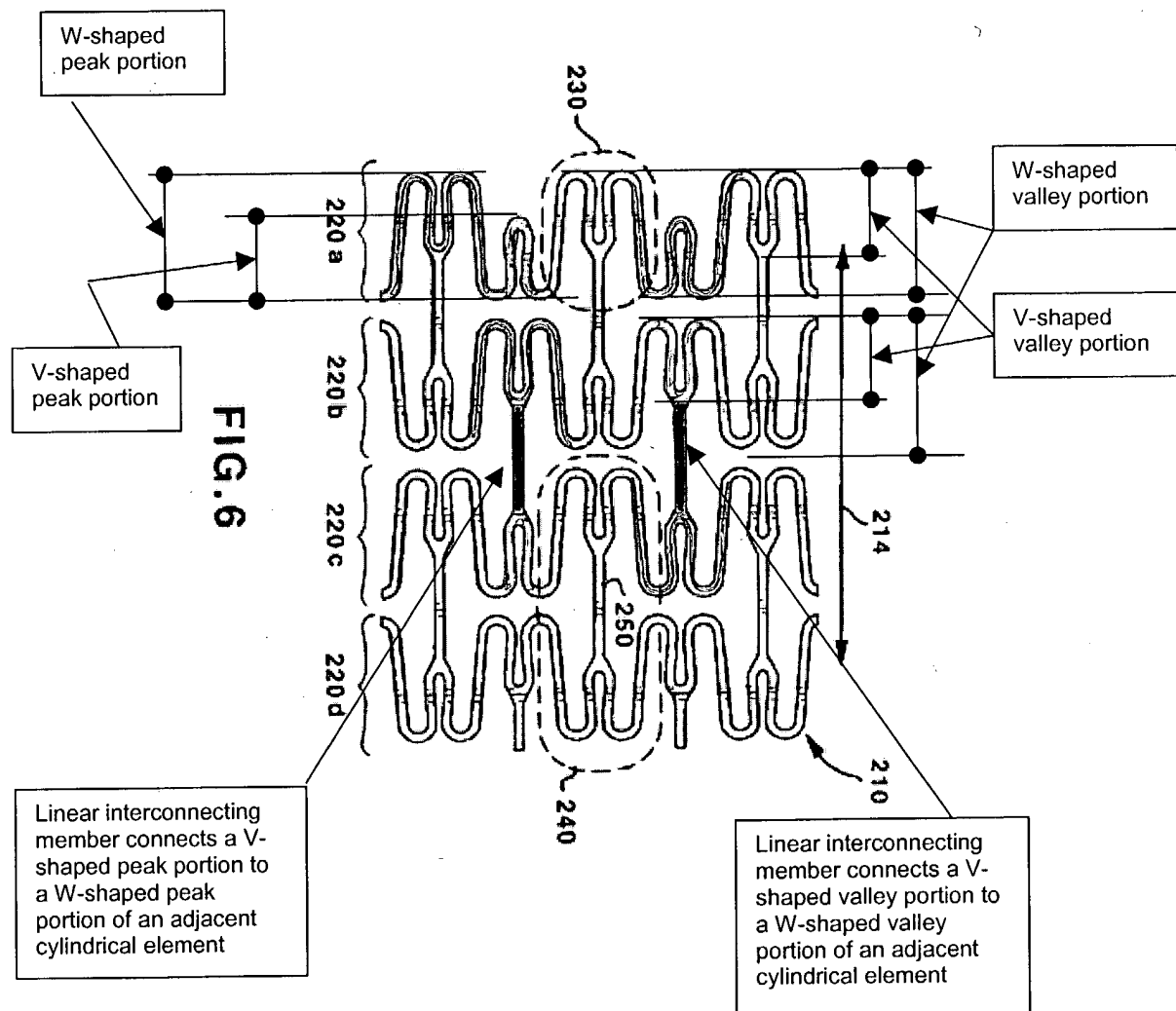
DETAILED ACTION



ALLEN's Fig. 8

(Valley portions are above peak portions for easy comparison to the claims of the present invention)

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DANG's Fig. 6

(Peak portions are above valley portions in this drawing)

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3, 6, 8-9, 11, 13-18, 21-31 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by DANG et al (5,935,162).

As to claims 1, 3, 6, 8-9, 11, 13-18, 21-31 and 37, DANG (see Fig. 6 reproduced and shown in page 3) discloses a balloon assisted expanding stent or a self-expanding stent (col. 8, lines 31-35) comprising cylindrical elements of W-shaped valley and W-shaped peak/inverted W-shaped portions (in red color), V-shaped valley and V-shaped peak/inverted V-shaped portions (in green color), wherein W-shaped portions and V-shaped portions have different longitudinal lengths as recited in the claims. Two adjacent cylindrical elements are connected by linear inter-connecting members (in yellow) in a manner as recited in the claims.

3. Claims 1, 3-4, 6-11, 13, 15-22, 32-33 and 35-36 are rejected under 35 U.S.C. 102(e) as being anticipated by ALLEN et al (US 2001/0016770A1).

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As to claims 1, 3-4, 6-11, 13, 15-16, 21-22 and 35, ALLEN (see Fig. 8 reproduced and shown in page 2) discloses a balloon assisted expanding stent (see page 2, lines 1-6, section [0016]) or a self-expanding stent (see page 2, lines 7-10, section [0018]) comprising V-shaped (in green) and W-shaped peak portions (in red), V-shaped and W-shaped valley portions, wherein W-shaped portions are shorter in length than the V-shaped portions as recited in the claims.

As to claims 17-19, ALLEN (Fig. 8 reproduced and shown in page 2) discloses each cylindrical element has at least 4 W-shaped valley portions adjacent to at least 4 V-shaped valley portion and W-shaped valley portions are smaller than V-shaped valley portions.

As to claim 20, ALLEN's Fig. 8 clearly shows only a portion of ALLEN's stent. Inherently, ALLEN's stent can have eight peaks portions and eight valley portions as recited in the claim dependent on a desirable circumference of a blood vessel lumen of a patient when the stent is deployed in the lumen.

As to claims 32-33, see ALLEN's Fig. 8, page 2.

Further as to claim 36, Fig. 8, page 3, shows a linear connecting member AB (in black) as recited in the claims.

Notice that V-shaped and W-shaped portions can be peaks or valley portions dependent on one's consideration which side of the drawing is up.

#### ***Allowable Subject Matter***

Claim 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed in the previous response have been fully considered and responded as below:

The rejection of claim 20 under 35 U.S.C. 103(a) as being unpatentable over ALLEN et al (US 2001/0016770A1) has been withdrawn in view of the Applicant's assertion that the ALLEN's stent and the stent of the present invention have a common ownership.

Basically, the Applicant asserts that ALLEN reference and DANG reference identify peak portions, valley portions and interconnecting members differently from the way the Examiner does.

Notice that ALLEN and DANG stent structures are shown in the drawings to clearly specify their inventions. Even ALLEN and DANG references identify and name various elements (cylindrical elements) and components (peak portions, valley portions) of the stents differently, the Examiner's rejection is considered proper and reasonable as long as the elements of ALLEN and DANG stents exist in drawings in the references as pointed out in this "Office Action".

In addition, a stent is mainly a design/configuration/arrangement of structural elements/struts to support a blood vessel and the stent is most accurate described/depicted by the stent's drawing(s).


Therefore, if the claims of the present invention read on the drawings of the prior arts of reference, then the claims should be rejected as unpatentable over the prior arts of reference as indicated above.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
\_\_\_\_\_  
11/30/2004

Vy Q. Bui  
Primary Examiner  
Art Unit 3731